



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL
LITIGATION BUREAU

Writer Direct: (518) 776-2293

February 15, 2023

Hon. Therese Wiley Dancks (*via CM/ECF filing*)
Federal Building and U.S. Courthouse
P.O. Box 7346
Syracuse, NY 13261-7346

Re: *Young America's Foundation et al v. Stenger et al*
Northern District of New York – 20-cv-822 (LEK/TWD)

Dear Judge Dancks:

This office represents Defendants John Pelletier, Brian Rose and Harvey Stenger (“State Defendants”). This letter is a status report and request for judicial assistance.

1. Lizak deposition:

This Court’s text order dated January 25, 2023 ordered in part, that **“The parties are to work diligently to schedule the depositions of witnesses Nelson, Haynes, Scagnelli, Babadina, and Murray, as well as current party Plaintiff Lizak who shall be deposed no later than 2/27/2023. State Defendants shall respond to Plaintiffs' outstanding document demands by 2/21/2023. Lizak shall respond to State Defendants' Interrogatories by 2/21/2023 while his motion to dismiss his personal claims is pending.”**

State Defendants have responded to Plaintiff’s outstanding document demands. To date, State Defendants have not been provided with available dates for witnesses Nelson, Haynes, Scagnelli, Babadina, and Murray. More critically, to date Plaintiff Lizak has not provided any available date for deposition. Currently, the parties have depositions scheduled of State Defendants or SUNY representative for this Friday, February 17, February 22 and February 24. I have no further available dates in my schedule to depose Lizak before February 27, in addition to the fact that no available dates have been offered, nor have Lizak’s interrogatory responses been served.

State Defendants respectfully request that Plaintiff Lizak’s deposition be Court-ordered to take place at OAG’s offices in Albany at 10 a.m. on Thursday, March 16, 2023.¹ If necessary, this

¹ As I have advised counsel, I have no objection to another mutually agreeable date in March, nor any objection to conducting the deposition remotely, but have not yet been provided any available date.

February 15, 2023

Page 2

office can submit a judicial subpoena for the Court's signature, should Plaintiffs' counsel be unable to produce him on a date certain.

2. Outstanding discovery:

Plaintiff College Republicans' former President John Restuccia was deposed on January 10, 2023. Thereafter, on January 12, 2023, Defendants issued a Request for Production via e-mail for documents identified at that deposition, as well as witness information, and to date Plaintiffs have still not responded, over 30 days since that request, other than to confirm available deposition dates for two College Republican witnesses (Reign Bey and Logan Blakeslee, currently scheduled for deposition on March 3 and 10, 2023).

Plaintiff Young America's Foundation representative Raj Kanappan was deposed on January 19, 2023. Thereafter, on January 20, 2023, Defendants issued a Request for Production via e-mail for numerous documents identified at that deposition, and to date Plaintiffs have still not made any response to that demand.

State Defendants respectfully request that the Court set a date for responses to these demands for documents, which are necessary for the defense of this matter, and for ongoing depositions.

In the alternative, a judicial conference is requested to discuss the above.

Thank you for your kind consideration.

Respectfully yours,

s/ *John F. Moore*

John F. Moore

Assistant Attorney General

Bar Roll No. 105188

cc (via ECF): All Counsel